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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,740	02/22/2002	Charles S. Musso JR.	21524/1100	4722
7590	09/28/2004		EXAMINER	
George R. McGuire Bond, Schoenbeck & King, PLLC One Lincoln Center Syracuse, NY 13202			KRAMER, DEAN J	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/082,740	MUSSO ET AL.
	Examiner	Art Unit
	Dean J. Kramer	3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 April 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 February 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/5/04 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 6, 12, 13, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Lamoureux et al..

The patent to Lamoureux et al. shows a dump truck body comprising a longitudinal support (24), a planar support plate (40) hingedly attached to the longitudinal support (24) at (86), a horizontally extending floor section (68) attached to the longitudinal support (24), and a conveyor system (52). It is noted that while the Lamoureux et al. truck body contains transverse supports (28,78), none of these

transverse supports are commonly attached to the floor section (68), the longitudinal support (24), **and** the planar support plate (40) as is called for in claims 1 and 12.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lamoureux et al. in view of Bibeau et al..

The Lamoureux et al. dump truck was presented above in section 3 and substantially shows the invention as set forth in claims 4 and 15 except for the cross-sectional shapes of the longitudinal support (24) being triangular.

The patent to Bibeau et al. shows several longitudinal supports along its truck body some (38) of which are generally triangular in cross-section.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the longitudinal support (24) of the Lamoureux et al. truck body with generally triangular cross-sectional shapes as taught by Bibeau et al. in order to provide a more durable support for accommodating heavier loads.

7. Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lamoureux et al. in view of Molenaar et al..

The patent to Molenaar et al. shows longitudinal supports (32) on opposing sides of its conveyor assembly wherein the cross-sectional shape of these supports (32) is an "H". It would have been obvious to a person having ordinary skill in the art to use H-beams as the longitudinal supports in the Lamoureux et al. truck body as is shown old and well known in the Molenaar et al. patent as an alternative yet functionally equivalent means of supporting the body.

8. Claims 3, 7-11, 14, and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lamoureux et al. in view of Hollinrake et al..

The Lamoureux et al. truck body was presented above in section 3 and substantially shows the invention as set forth in claims 3, 7-11, and 18-22 except that its member (54) is inclined but not "curved".

However, it is old and well known to provide curved lower corners on dump truck bodies as shown in Figure 7 of the Hollinrake et al. patent.

Thus, it would have been obvious to one of ordinary skill in the art to at least partially curve the member (54) of the Lamoureux et al. assembly similar to that shown in Figure 7 of the Hollinrake et al. patent such that the concave shape of the resulting members would increase the space within the truck body. It is noted that the resulting pivoted members could either be removably attached to each side wall with a removable hinge pin or permanently attached with the hinge welded thereto. Further, regarding claims 3 and 14, the patent to Hollinrake et al. shows longitudinal support structures that are trapezoidal in cross-section (see Figs. 7, 8, and 11).

Drawings

9. The corrected drawings were received on 2/20/04. These drawings are approved by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (703) 308-2181. The examiner can normally be reached on Mon., Tues., Thurs., Fri. (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (703) 308-1113. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3652

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Dean J. Kramer 9/21/04
Primary Examiner
Art Unit 3652

djk
9/21/04